



ATTORNEY DOCKET NO. 1671-0003

DAC #12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark J. Weiser

Serial No.: 09/773,756

RECEIVED

Filed: February 1, 2001

MAR 13 2003

For: **ANIMAL SCENT BASED REPELLANT AND ATTRACTANT COMPOSITIONS**

OFFICE OF PETITIONS

Group Art Unit: 1651

Examiner: Susan Coe

Assistant Commissioner for Patents
Attention: Office of Petitioner
Box DAC
Washington, D.C. 20231

I, Philip E. Levy, hereby certify that this correspondence and all documents indicated as being provided therewith are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Attention: Office of Petitions, Box DAC, Washington D.C. 20231 on:

3/6/03

Date of Deposit



Signature

PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION UNDER 35 C.F.R. § 1.137(b)

Sir:

The above-identified application became abandoned for failure to file a timely and proper response to the notice mailed by the Patent and Trademark Office on August 6, 2001. Applicant hereby petitions the Commissioner for revival of this

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application pursuant to 37 C.F.R. § 1.137(b) because the abandonment of the application was unintentional.

The general facts supporting this Petition are as follows:

1. The present application was filed on February 1, 2001.
2. On June 20, 2001, an Office Action was mailed by the Patent and Trademark Office to Applicant's then attorney of record, John P. Halvonik. The Office Action required restriction between Group I, claims 1-9, and Group II, claim 10, and an election of species.

3. Sometime between June 20, 2001 and July 17, 2001, Applicant ceased to be represented in the present application by Attorney Halvonik and appointed George C. Atwell as new counsel. On July 17, 2001, Attorney Atwell filed a Submission of New Power of Attorney and Election of Claims in which Group I was elected for prosecution (the "July 17 Reply"). No election of species was made in the July 17 Reply.

4. On August 6, 2001, a notice was sent by the Patent and Trademark Office to Attorney Atwell (the "August 6 Notice"). The notice indicated that the July 17 Reply was not fully responsive to the prior Office Action because the Applicant did not elect a species. The notice gave Applicant one (1) month to correct this omission.

5. No response was filed by Attorney Atwell with the Patent and Trademark Office within the required time limit.

6. On February 20, 2002, a Notice of Abandonment was sent to Attorney Atwell stating that the present application had been abandoned for failure to file a proper reply to the August 6 Notice.

7. Applicant never received a copy of the August 6 Notice from Attorney Atwell, and was never informed by Attorney Atwell of the fact that the Patent and Trademark Office considered the July 17 Reply to be not fully responsive or the need to make a corrective filing within one month of the mailing of the August 6 Notice. Applicant also never received a copy of the Notice of Abandonment from Attorney Atwell.

8. In January of 2003, after repeated attempts to contact Attorney Atwell regarding the present application were not successful, Applicant retained Metz Lewis LLC and the undersigned to assume prosecution of the present application.

9. The undersigned promptly obtained a copy of the Patent and Trademark Office file for the present application, and thereafter informed Applicant of the facts set forth in paragraphs 4 and 5 of this Petition and the fact that the present application had been abandoned for a failure to respond. This was the first that Applicant had learned of these facts.

10. Applicant immediately requested the undersigned to file this Petition to revive the present application as Applicant had no intention of abandoning the present application. The entire delay from the date on which a response to the August 6 Notice was due to the filing of this Petition was unintentional.

Along with this Petition, Applicant has enclosed: (1) a declaration of the Applicant, Mark J. Weiser; (2) a proper response to the August 6 Notice; (3) an Amendment; and (4) a check for \$650.00 for the fee for filing this Petition. Should any additional fees be required in connection with this Petition, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0525. No extension of time or

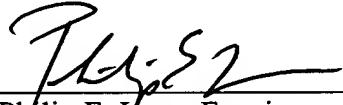
other fee is believed to be due for filing the present Petition. In the event an extension of time or other fee is required, Applicant hereby petitions for any additional fees required to make this Petition or any paper filed herewith timely, and any associated fee may be charged to Deposit Account No. 50-0525. **A DUPLICATE COPY OF THIS SHEET IS ATTACHED.**

It is respectfully requested that, in view of the above, the present application be revived.

Respectfully submitted,

METZ LEWIS LLC

By:


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